

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20250
of Ernst Fink and Gertrude Fink
to Appropriate from an Unnamed Spring
in Tehama County

Decision D 1209

ADOPTED FEB 17 1965

DECISION APPROVING APPLICATION

Ernst Fink and Gertrude Fink having filed Application 20250 for a permit to appropriate unappropriated water; protests having been received; a hearing having been held before the State Water Rights Board in Red Bluff, California, on July 21, 1964, conducted by Board Members Kent Silverthorne, Chairman, and Ralph J. McGill; applicants and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered; the Board finds as follows:

1. Application 20250 is for a permit to appropriate 8,000 gallons per day by direct diversion year-round for domestic use from an unnamed spring in Tehama County. The point of diversion is to be located within the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 35, T28N, R5E, MDB&M.

2. The unnamed spring is within the watershed of Deer Creek. It was developed by Mr. Fink, one of the applicants, in 1946 by digging down about 4 feet in a green, mossy meadow approximately 300 feet in diameter located on United States Forest land.

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He had observed the area frequently during the years from 1928, during which time no surface flow of water was visible. After developing the spring, the applicants constructed a small dam about one and a half feet high, creating a regulatory reservoir with a surface area of approximately 100 square feet. Water is diverted into a pipeline and conveyed to the place of use about 4,500 feet distant. Water is used at Deer Creek Lodge, which has ten house-keeping units with a capacity of 40 persons, and at the lodge itself, which has six hotel rooms in addition to the applicants' living quarters. Water is also used at a service station, restaurant and bar, as well as for control of dust. The flow of the spring, measured on July 16, 1964, was 0.15 cubic foot per second (or about 67 gallons per minute). Water not diverted by applicants flows into Lost Creek, thence Deer Creek.

3. Protestants, Stanford Vina Ranch Irrigation Company and Deer Creek Irrigation District, divert water from Deer Creek near its confluence with the Sacramento River for irrigation purposes. By stipulation between the parties, it is agreed that the protestants have vested rights in the flow of Deer Creek which is insufficient in most years to supply the protestants' requirements.

4. Under natural conditions, which existed prior to the development by Mr. Fink in 1946, the spring did not contribute to the flow of Deer Creek. The spring flow is a new water supply which the applicants have developed and can divert and use in the manner proposed without interfering with prior vested rights of the protestants or other lawful users of water.

5. Construction work is completed and the intended use is beneficial.

From the foregoing findings, the Board concludes that Application 20250 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the following Order.

ORDER

IT IS HEREBY ORDERED that Application 20250 be, and it is, approved and that a permit be issued to the applicants, subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 8,000 gallons per day by direct diversion to be diverted year-round.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1966.

4. Progress reports shall be filed promptly by permittees on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. Permittees shall allow representatives of the State Water Rights Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of , 1965.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member